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10/092,008	03/06/2002	Loc V. Nguyen	4000.2.105	7582
32641	7590	06/14/2005	EXAMINER	
DIGEO, INC C/O STOEL RIVES LLP 201 SOUTH MAIN STREET, SUITE 1100 ONE UTAH CENTER SALT LAKE CITY, UT 84111			THERIAULT, STEVEN B	
		ART UNIT		PAPER NUMBER
				2179

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/092,008	NGUYEN, LOC V.
	Examiner Steven B. Theriault	Art Unit 2179

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 March 2005.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-45 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 March 2005 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

1. This action is responsive to the following communications: Amendment filed on 03/28/2005  
**This action is Made Final.**
2. Claims 1-45 are pending in the case. Claims 1, 22, 40, 41 and 42 are the independent claims.  
Claims 42-45 are new claims added with the amendment filed 03/28/2005  
Applicant's attention is directed to the fact that a new examiner has been assigned to this case.  
The Examiner's name and telephone number are provided below.

### ***Terminal Disclaimer***

3. The terminal disclaimer filed on 03/28/2005 disclaiming the terminal portion of any patent granted on this application, which would extend beyond the expiration date of any patent granted on Application Number 10/092,008 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Claim Rejections - 35 USC § 102***

4. **The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:**

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claims 1- 41 are rejected under 35 U.S.C. 102(e) as being anticipated by Easty et al. (hereinafter Easty) U.S. patent No. 6,448,987 B1 issued Sep. 10, 2002 and filed Apr. 3, 1998.**

In the examiners interpretation, a polygon is a triangle with three sides that is a synonymous geometric shape as a curvilinear shape. In, each of the following claims the words curvilinear and polygon can be substituted for one another.

In regard to **Independent claim 1**, Easty teaches the method for obtaining user input in a graphical user interface, the method comprising:

- *Displaying at least a portion of a first polygonal menu comprising a first set of selectable options circumferentially disposed on the first polygonal menu;* (Easty column 2, lines 62-67 and column 3, lines 1-20 and Figure 1a –1c) Easty teaches a polygonal menu with a set of inner and outer rings. The categories on the inner and outer rings are dynamically determined at the time of the display and the icons on each menu ring are individually selectable or highlighted.
- *Receiving a user selection of an option from the first set of selectable options;* (Easty column 5, lines 45-67) Easty teaches the user selects one of the options from the menu ring.
- *And displaying at least a portion of a second polygonal menu comprising a second set of selectable options circumferentially disposed on the second polygonal menu, wherein the second polygonal menu is concentrically-disposed relative to the first polygonal menu;* (Easty column 2, lines 62-67 and column 3, lines 1-20 and Figure 1a –1c) Easty teaches a second inner ring is displayed based on content and a user selection.

With respect to **dependant claim 2**, Easty teaches the following:

- *Receiving a user selection of an option from the second set of selectable options;* (Easty column 5, lines 45-67) Easty teaches the user selects one of the options from the menu ring.
- *And displaying at least a portion of a third polygonal menu comprising a third set of selectable options circumferentially disposed on the third polygonal menu, wherein the*

*third polygonal menu is concentrically-disposed relative to the first and second polygonal menus; (Easty column 2, lines 62-67 and column 3, lines 1-20) Easty teaches two or more concentric rings can be displayed.*

With respect to **dependant claim 3**, Easty teaches *the each side of the first polygonal menu is associated with a particular selectable option, and wherein the number of selectable options in the first set determines the number of sides for the first polygonal menu.*

(Easty Fig 1a – 1c) Easty teaches the categories are determined dynamically at the time of selection and when a user selects an option the sub-options are displayed on an inner menu.

With respect to **dependant claim 4**, Easty teaches the following:

- *Rotating the first polygonal menu about an axis to align a desired option from the first set with a fixed selection indicator. (Easty column 3, lines 14-20) Easty teaches the appearance of the outer menu being rotated about its center from the initial setting to the new setting.*

With respect to **dependant claim 5**, Easty teaches the following:

- *Detecting a user action indicating selection of the option aligned with the selection indicator. (Easty column 3, lines 14-20) Easty teaches that if the selection indicator is already highlighted the icons will be redisplayed.*

With respect to **dependant claim 6**, Easty teaches the following:

- *Moving a selection indicator circumferentially around the first polygonal menu to align the selection indicator with a desired option from the first set. (Easty column 4, lines 52-63) Easty teaches the variety of ways the menu items may be highlighted or selected by surrounding the icon with a highlighting icon, which has a shape with a border.*

With respect to **dependant claim 7**, Easty teaches the following:

- *Detecting a user action indicating selection of the option aligned with the selection indicator.* (Easty column 3, lines 14-25) Easty teaches the action of displaying the corresponding inner ring or content from the user selection which is highlighted.

With respect to **dependant claim 8**, Easty teaches *the selectable options from the second set are determined by a selected option from the first set.* (Easty column 3, lines 10-25) Easty teaches the inner ring of content is a sub-category of the outer ring, which is determined dynamically at the selection time.

With respect to **dependant claim 9**, Easty teaches *the selectable options from the second set are sub-options of a selected option from the first set.* (Easty column 3, lines 10-25) Easty teaches the inner ring of content is a sub-category of the outer ring, which is determined dynamically at the selection time.

With respect to **dependant claim 10**, Easty teaches *the selectable options from the first and second sets are hierarchically related.* (Easty column 4, lines 1-17) Easty teaches the inner ring indicates a subcategory of the outer ring of digital contents.

With respect to **dependant claim 11**, Easty teaches *at least one selectable option comprises an icon.* (Easty column 4, lines 1-17) Easty teaches the inner ring and outer rings are menu items represented by icons.

With respect to **dependant claim 12**, Easty teaches *at least one selectable option comprises text description.* (Easty column 6, lines 31) Easty teaches icons using characters are displayed.

With respect to **dependant claim 13**, Easty teaches *at Least one selectable option is associated with an audio sample, and wherein the audio sample is played in response to the corresponding option being aligned with a selection indicator.* (Easty column 3, lines 30-35) Easty teaches the response to a users selection of a category and subcategory will display further information or will deliver the content to the user.

With respect to **dependant claim 14**, Easty teaches *the second polygonal menu is concentrically displayed around the first polygonal menu.* (Easty Figure 1a-1c) Easty teaches the inner and outer concentric rings are displayed around one another.

With respect to **dependant claim 15**, Easty teaches *the second polygonal menu is concentrically displayed within the first polygonal menu.* (Easty Figure 1a-1c) Easty teaches the inner and outer concentric rings are displayed around one another

With respect to **dependant claim 16**, Easty teaches *receiving a user selection of an option from the second set comprises:*

- *Rotating the second polygonal menu about an axis to align a desired option from the second set with a fixed selection indicator* (Easty column 5, lines 45-67) Easty teaches the rotating the inner and outer rings based on the user selections.

With respect to **dependant claim 17**, Easty teaches *the receiving of a user selection of an option from the second set comprises:*

- *Moving a selection indicator circumferentially around the second polygonal menu to align the selection indicator with a desired option from the second set.* (Easty figure 1c an column 5 lines 64-67 and column 6, lines 1-5) Easty teaches a highlighting icon is used to

show the inner and outer ring selections. Easty teaches the appearance of the border icon being moved from the old position to the new selected position.

With respect to **dependant claim 18**, Easty teaches *the first and second polygonal menus are rotatable about a common axis in response to a user command.* (Easty figure 1a-1c and column 5, lines 17-67 and column 6, lines 1-4) Easty teaches the process of showing a rotation effect of moving the highlighted icon from the old position to the new user selected position. The entire menu (inner and outer) will be rotated.

With respect to **dependant claim 19**, Easty teaches *the second polygonal menu is displayed in response to the selection of an option from the first set.* (Easty column 5, lines 17-44) Easty teaches the second or inner menu is dynamically displayed with a users selection.

With respect to **dependant claim 20**, Easty teaches *the first polygonal menu is only partially displayed in the graphical user interface, and wherein the first set of selectable options comprises a subset of available options associated with the first polygonal menu.* (Easty column 5, lines 17-44) Easty teaches that restrictions may be applied to restrict the viewing to a subset of the available options.

With respect to **dependant claim 21**, Easty teaches *the first polygonal menu is rotatable in response to a user command to display a different subset of available options.* (Easty column 4, lines 1-28) Easty teaches that the categories displayed are determined dynamically and by other characteristics and then subcategorized in the inner ring.

With respect to **Independent claim 22**, Easty teaches a user interface comprising:

- *A first polygonal menu comprising a first set of selectable options circumferentially disposed on the first polygonal menu; and* (Easty column 2, lines 62-67 and column 3,

lines 1-20 and Figure 1a –1c) Easty teaches a polygonal menu with a set of inner and outer rings. The categories on the inner and outer ring are dynamically determined at the time of the display and the icons on each menu ring are individually selectable or highlighted.

- *A second polygonal menu comprising a second set of selectable options circumferentially disposed on the second polygonal menu, wherein the second polygonal menu is concentrically-disposed relative to the first polygonal menu, and wherein the second polygonal menu is displayed in response to a user selection of an option from the first set* (Easty column 2, lines 62-67 and column 3, lines 1-20 and Figure 1a –1c). Easty teaches a second inner ring is displayed based on content and a user selection. Easty also teaches the user selects one of the options from the menu ring. (Easty column 5, lines 45-67)

With respect to **dependant claim 23**, Easty teaches the following:

- *A third polygonal menu comprising a third set of selectable options circumferentially disposed on the third polygonal menu, wherein the second polygonal menu is concentrically-disposed relative to the first polygonal menu, and wherein the second polygonal menu is displayed in response to a user selection of an option from on the first set* (Easty column 2, lines 62-67 and column 3, lines 1-20) Easty teaches two or more concentric rings can be displayed.

With respect to **dependant claim 24**, Easty teaches *the first and second polygonal menus are ring-shaped*. (Easty Fig 1a – 1c) Easty teaches the GUI is shaped in concentric rings.

With respect to **dependant claim 25**, Easty teaches the following:

- *A fixed selection indicator;* (Easty column 3, lines 14-20) Easty teaches a highlighting indicator.

- *Wherein the first polygonal menu is rotatable to align a desired option from the first set of selectable options with the fixed selection indicator.* (Easty column 3, lines 14-20) Easty teaches the menu is rotated with a user selection.

With respect to **dependant claim 26**, Easty teaches *the second polygonal menu is rotatable to align a desired option from the second set with the fixed selection indicator.* (Easty column 5, lines 64-67 and column 6, lines 1-4) Easty teaches the animated appearance of a highlighting icon that gives the appearance of a rotatable ring as the border icon moves from the old position to the new position.

With respect to **dependant claim 27**, Easty teaches the following:

- *A first movable selection indicator configured to move circumferentially around the first polygonal menu to align with a desired option from the first set.* (Easty column 5, lines 14-44) Easty teaches the highlighting border icon that shows the user selections and the visual rendering gives the illusion of the indicator moving from one selection to the next.

With respect to **dependant claim 28**, Easty teaches the following:

- *A second movable selection indicator configured to move circumferentially around the second polygonal menu to align to a desired option from the second set.* (Easty column 5, lines 14-67) Easty teaches the selection indicator around the second or inner menu that is highlighted based on the user selection and gives the illusion of the border icon moving from the old position to the new position.

With respect to **dependant claim 29**, Easty teaches *the selectable options from the second set are determined by a selected option from the first set.* (Easty column 3, lines 10-25) Easty

teaches the inner ring of content is a sub-category of the outer ring, which is determined dynamically at the selection time.

With respect to **dependant claim 30**, Easty teaches *the selectable options from the second set are sub-options of a selected option from the first set.* (Easty column 3, lines 10-25) Easty teaches the inner ring of content is a sub-category of the outer ring, which is determined dynamically at the selection time.

With respect to **dependant claim 31**, Easty teaches the selectable options from the first and second sets are hierarchically related. (Easty column 4, lines 1-17) Easty teaches the inner ring indicates a subcategory of the outer ring of digital contents.

With respect to **dependant claim 32**, Easty teaches *at Least one selectable option comprises an icon.* (Easty column 4, lines 1-17) Easty teaches the inner ring and outer rings are menu items represented by icons.

With respect to **dependant claim 33**, Easty teaches *at Least one selectable option comprises text description.* (Easty column 6, lines 31) Easty teaches icons using characters are displayed

With respect to **dependant claim 34**, Easty teaches *at least one selectable option is associated with an audio sample, and wherein the audio sample is played in response to the corresponding option being aligned with a selection indicator.* (Easty column 3, lines 30-35) Easty teaches the response to a users selection of a category and subcategory will display further information or will deliver the content to the user.

With respect to **dependant claim 35**, Easty teaches *the second polygonal menu is concentrically displayed around the first polygonal menu.* (Easty Figure 1a-1c) Easty teaches the inner and outer concentric rings are displayed around one another.

With respect to **dependant claim 36**, Easty teaches *the second polygonal menu is concentrically displayed within the first polygonal menu.* (Easty Figure 1a-1c) Easty teaches the inner and outer concentric rings are displayed around one another.

With respect to **dependant claim 37**, Easty teaches *the first and second polygonal menus are rotatable about a common axis in response to a user command.* (Easty figure 1a-1c and column 5, lines 17-67 and column 6, lines 1-4) Easty teaches the process of showing a rotation effect of moving the highlighted icon from the old position to the new user selected position. The entire menu (inner and outer) will be rotated.

With respect to **dependant claim 38**, Easty teaches *the first polygonal menu is only partially displayed, and wherein the first set of selectable options comprises a subset of available options associated with the first polygonal menu.* (Easty column 5, lines 17-44) Easty teaches that restrictions may be applied to restrict the viewing to a subset of the available options.

With respect to **dependant claim 39**, Easty teaches *the first polygonal menu is rotatable in response to a user command to display a different subset of available options.* (Easty column 4, lines 1-28) Easty teaches that the categories displayed are determined dynamically and by other characteristics and then subcategorized in the inner ring.

With respect to **Independent claim 40**, a computer program product for performing a method for obtaining user input in a graphical user interface, the method comprising; (Easty column 6, claim 1, lines 52-67)

- *Displaying at least a portion of a first polygonal menu comprising a first set of selectable options circumferentially disposed on the first polygonal menu; receiving a user selection of an option from the first set of selectable options;* (Easty column 2, lines 62-67 and column 3, lines 1-20 and Figure 1a –1c) Easty teaches a polygonal menu with a set of inner and outer rings. The categories on the inner and outer ring are dynamically determined at the time of the display and the icons on each menu ring are individually selectable or highlighted.
- *And displaying at least a portion of a second polygonal menu comprising a second set of selectable options circumferentially disposed on the second polygonal menu, wherein the second polygonal menu is concentrically-disposed relative to the first polygonal menu.* (Easty column 5, lines 14-67) Easty teaches the selection indicator around the second or inner menu that is highlighted based on the user selection and gives the illusion of the border icon moving from the old position to the new position.

With respect to **Independent claim 41**, Easty teaches a *system for obtaining user input in a graphical user interface, the system comprising:* (Easty column 7, claim 9, lines 52-67)

- *Means for displaying at least a portion of a first polygonal menu comprising a first set of selectable options circumferentially disposed on the first polygonal menu;* (Easty column 2, lines 62-67 and column 3, lines 1-20 and Figure 1a –1c) Easty teaches a polygonal menu with a set of inner and outer rings. The categories on the inner and outer ring are dynamically determined at the time of the display and the icons on each menu ring are individually selectable or highlighted.
- *Means for receiving a user selection of an option from the first set of selectable options;* and (Easty column 5, lines 45-67) Easty teaches the user selects one of the options from the menu ring.
- *Means for displaying at least a portion of a second polygonal menu comprising a second set of selectable options circumferentially disposed on the second polygonal menu,*

*wherein the second polygonal menu is concentrically disposed relative to the first polygonal menu.* Easty column 2, lines 62-67 and column 3, lines 1-20 and Figure 1a – 1c) Easty teaches a second inner ring is displayed based on content and a user selection.

**References to specific columns, figures or lines should not be limiting in any way. The entire reference provides disclosure related to the claimed invention.**

6. **Claims 42-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Ohkura et al. (hereinafter Ohkura) U.S. patent No. 6,005, 601 issued Dec. 21, 1999 and filed Feb. 6, 1997.**

In regard to **Independent claim 42**, Ohkura teaches a method for obtaining user input in a graphical user interface the method comprising:

- *Displaying at least a portion of a first polygonal menu comprising a first set of selectable options circumferentially disposed on the first polygonal menu;* (Ohkura Figure 5 and 18 and column 5, lines 39-45) Ohkura teaches the display of options on a polygonal menu circumferentially displayed. Ohkura expressly shows the menu comprised of polygonal shapes.
- Rotating the first polygonal menu about an axis to radially align an option from the first set with a fixed selection indicator; (Ohkura Figure 5 and 18 and column 5, lines 39-45) Ohkura expressly shows the rotation of the first menu to align with the highlighted and distinctly outlines selection indicator.
- In response to a selection of the radially-aligned option from the first set, displaying at least a portion of a second polygonal menu comprising a second set of selectable options circumferentially disposed on the second polygonal menu, wherein the second polygonal menu is concentrically-disposed relative to the first polygonal menu' and rotating the second polygonal menu about the axis to radially align a user-selected option from the second set with the fixed selection indicator (Ohkura Figure

5 and 18 and column 5, lines 39-45) Ohkura teaches the selection of the menu options include area X1 in which the user can select the time after selecting the genre in area z. Ohkura also shows where the specific option that user would like to see is radially aligned as a spoke along the user interface linking all of the menus together to present the option to the user. Concentric circles are defined as circles that have a common center; The American Heritage® Dictionary U. Ohkura expressly shows a cylinder in which the individual menus rotate which have the same center point and are rotating on the same axis (Ohkura see figure 5).

With respect to **dependent claim 43**, Ohkura teaches the method further comprising:

- *In response to a selection of the radially-aligned option from the second set, displaying at least a portion of a third polygonal menu comprising a third set of selectable options circumferentially disposed on the third polygonal menu, wherein the third polygonal menu is concentrically-disposed relative to the first and second polygonal menus; and* (Ohkura figure 5 and 18 and column 5, lines 25-67) Ohkura expressly shows concentric circles that share the same center and one or more polygonal menus in which the user selects the genre and the time and day and the broadcasts available based on the selections are displayed in area Y.
- *Rotating the third polygonal menu about the axis to radially align a user-selected option from the third set with the fixed selection indicator* (Ohkura figure 5 and 18 and column 5, lines 25-67) Ohkura expressly teaches the rotation of the plurality of menu options and the alignment with a selection indicator in the center of the display.

With respect to **dependent claim 44**, Ohkura teaches the method wherein the user-selected options from the first and second sets always define a radially-extending selection path

through the first and second polygonal menus (Ohkura figure 5 and 18) Ohkura expressly shows a selection path that is always defined through the menus showing the user choices. With respect to **dependent claim 45**, Ohkura teaches the method wherein the user-selected options from the first, second, and third sets always define a radially-extending selection path through the first, second, and third polygonal menus (Ohkura figure 5 and 18) Ohkura expressly shows a selection path that is always defined through the menus showing the user choices

**References to specific columns, figures or lines should not be limiting in any way. The entire reference provides disclosure related to the claimed invention.**

### ***Response to Arguments***

7. Applicant's arguments filed 03/28/2005 have been fully considered but they are not persuasive.

*Applicants argument that Easty does not disclose or suggest polygonal menus*

*Applicants argue that Easty does not disclose or suggest “polygonal” menus and that a circle is not a polygon. – See Applicants argument (page 14 Para 1, lines 1-3 and Para 3, lines 5-7).*

The Examiner disagrees.

As the Examiner stated in the previous office action, a polygon is synonymous with a curvilinear shape not a circle. In the specification of the present application, the applicant discloses “polygonal” shaped menus that have rounded arcs and not fixed points or completely straight sides for the transition from one side of the shape to the next, which indicates a curvilinear shape (see Figures 7-9). Further, the curvilinear shapes borrow from the known Reuleaux Polygon mathematics as shown in (see - <http://www.mathworld.wolfram.com/ReuleauxPolygon.html>) where rounded curvilinear polygon shapes are built up of circular arcs.

Easty discloses a set of concentric menu choices where each menu choice is a "polygonal" shape. A "polygonal" shape is defined as a shape having many sides or relating to a surface marked by polygons; "polygonal structure" WordNet 2.0 Princeton University. Each of the menu choices has four sides (a small base, two obtuse angled sides and a larger top side) (see figures 1a-1b #11-11a). It is in the Examiners interpretation that a "polygonal" menu circumferentially disposed represents a bounded shape with curves and many sides. Therefore, the menu of Easty is composed of a menu comprised of "polygonal" shapes that are circumferentially disposed (see figures 1a-1b).

*Applicants argument that Easty does not disclose a polygonal menu with a variable number of sides based on the number of options.*

Applicant argues that Easty does not disclose or suggest varying the number of sides of the "polygonal" menu based on the number of options – See applicants argument page 15 – lines 8-10.

The Examiner disagrees.

Easty expressly teaches categories displayed in menus that may be dynamically determined at the time of display based on the content available to the user (Easty column 4, lines 18-28). As indicated in the above discussion, Easty teaches an outer and inner menu with polygonal shaped menus disposed circumferentially around the menu (see figures 1a-1b).

*Applicants argue that Easty does not disclose playing audio sample in response to an option being aligned with fixed selection indicator*

Applicant argues that Easty does not disclose or suggest playing an audio sample prior to a user making a selection on the menu because Easty discloses making the selection first to play the audio file. – See applicants argument - Page 18, Para 1, lines 1-5

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., Playing an

audio sample prior to an explicit selection) are not recited in the rejected claims 13 and 34. While the applicant refers to the amended claims in the arguments it appears that no amendment was made to the claims as submitted. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

*Applicants argument that Easty does not disclose a Second Polygonal Menu Concentrically Displayed Around a First Polygonal Menu After a selection of an Option from the First Menu.*

Applicants argue that Easty does not disclose a second polygonal menu displayed around the first polygonal menu because Easty, shows in one embodiment, concentric rings in which the user makes a selection on the outer ring and the available content is displayed on the inner ring (Easty Figure 1a).

The Examiner disagrees.

The dependent claim 14 inherits from Independent claim 1. In the Independent claim, the applicants claim:

- o The display of a **first** menu and receiving user selections from the first menu and
- o The display of a **second** polygonal menu concentrically relative to the first

In the dependent claim, the applicants claim

- o Where the second polygonal menu is displayed **around** the first polygonal menu

The independent claim does not recite the function of displaying the second menu “**after**” or in sequence with the user selecting the first menu as the applicant argues (See applicants argument page 19, Para 1, lines 1-3). While Easty may show as an alternative embodiment (column 4, lines 17-29) where the user makes a selection on the outer ring and then the system dynamically determines of content of the inner ring, Easty also expressly teaches the menu structure where the options are displayed to the user without dynamic determination. Which would allow the first outer ring and a second inner ring with content to be displayed

simultaneously and allow for the user to make selections on either ring and in any sequence they desire (Easty column 3, lines 46-67 and column 4, lines 1-17).

Further, the applicant claims where the "*second polygonal menu is displayed "around" the first polygonal menu*". The definition of "around" means in the area or vicinity of or by a circular or circuitous route; <http://dictionary.reference.com/search?q=around> Easty expressly shows the display of a second polygonal menu "around or in the vicinity of" the first polygonal menu (Easty figure 1a).

### **Conclusion**

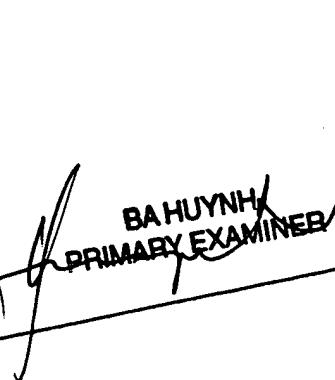
8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).  
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. Theriault whose telephone number is (571) 272-5867. The examiner can normally be reached on M-F 7:00 - 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on (571) 272-4136. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SBT

  
BA HUYNH  
PRIMARY EXAMINER